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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92058143
Party	Defendant D-Minor, Inc.
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Submission	Opposition/Response to Motion
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Date	06/15/2015
Attachments	AFROJACKS-1145-Response to Motion to Compel.pdf(41677 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK
OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL
BOARD**

VAN DE WALL B.V.,

Petitioner,

v.

D-MINOR, INC.,

Registrant.

Mark: AFROJACKS

Canc. No.: 92058143

Reg. No.: 3,556,451

REGISTRANT'S RESPONSE TO PETITIONER'S MOTION TO COMPELS

Registrant D-Minor, Inc., by their undersigned counsel, hereby respectfully requests the Trademark Trial and Appeal Board ("TTAB") deny Petitioner's Motion to Compel Discovery. Registrant reserves the right object to Petitioner's responses to Registrant's discovery requests.

BACKGROUND

On March 30, 2015, Registrant served its first set of discovery requests on the Petitioner. In the same package sent via 1st class US Mail, the Registrant's responses to Petitioner's first set of discovery requests were included. Registrant did provide the courtesy email on April 3, 2013. In the wake of said email, Petitioner alleges it never received Registrant's discovery requests nor Registrant's responses to Petitioner's discovery requests. However, Petitioner never once contacted Registrant via telephone in the month of April 2015 to indicate the served discovery requests and the responses to Petitioner's served discovery requests were never received.

Registrant has repeatedly communicated to Petitioner that the flow of this proceeding can

be greatly aided by prompt good faith communication via telephone. The Board has admonished Petitioner for its lack of timely telephonic communication. Petitioner waited until May 11, 2015 to contact Registrant via telephone. Registrant's counsel was on vacation in Alabama, but in the spirit of good faith – Registrant's counsel spoke with Petitioner's counsel. Petitioner's counsel indicated that it had not received Registrant's served discovery requests nor Registrant's discovery responses via US Mail. Registrant's counsel inquired as to why Petitioner's counsel waited until that day to communicate it had not received the aforementioned documents. Petitioner's counsel refused to answer the question. Nonetheless, Registrant's counsel indicated he would forward copies of the Registrant's responses when he returned to his Atlanta office the following Monday. At that point, Petitioner's counsel insisted that Registrant's responses be resent without objection. On March 30, 2015, Registrant properly mailed its responses to Petitioner's first set of discovery requests. Hence, Registrant felt no need to comply with Petitioner's request for discovery responses without objection. Registrant is perfectly willing to resend its original responses.

The Board Should Accept Registrant's March 30, 2015 Responses To Petitioner's First Set of Discovery Requests So That This Case Is Determined On The Merits And Because Petitioner Has Not Shown That Doing So Will Prejudice Petitioner In Proving Its Allegations

The presentation of this action on the merits would not be served if the Board orders Registrant to resubmit these requests without objection. Moreover, Petitioner cannot argue or assert that it would be prejudiced in its pursuit of this action if the Board accepted Registrant's March 30, 2015 responses. Petitioner defied the Board's express orders to communicate via telephone to resolve matters that may stunt the progression of this proceeding. Petitioner has not complied in good faith. Petitioner cannot meet its burden before the TTAB to warrant ordering the resubmission of discovery responses without objection.

Registrant respectfully requests that this motion be denied in its entirety and Registrant's original first set of responses be resent to Petitioner and prohibit the Petitioner from requesting discovery responses without objection.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Leslie A. Thompson", written over a horizontal line.

Leslie A. Thompson
Counsel for Registrant
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June 15, 2015

CERTIFICATE OF SERVICE

I, Leslie A. Thompson, hereby certify that on this 15th day of June 2015, a true and accurate copy of the REGISTRANT'S RESPONSE TO PETITIONER'S MOTION TO COMPEL DISCOVERY was sent to counsel for Petitioner by FEDEX GROUND postage prepaid, addressed to:

Kurosh Nasser
Law Offices of Kurosh Nasser PLLC
3207A M Street, NW
Washington, D.C. 20007

I also hereby certify that on this 15th day of June 2015, a true and accurate copy of the aforementioned was also sent to counsel for Petitioner via electronic mail to:

babatunde@kurosh.net

mail@kurosh.net



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